



# ***WINE AND GRAPE PRODUCTION PROGRAM***

**Application & Guidelines**

**February 2011**

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## **Missouri Department of Economic Development**

301 West High Street, Room 770

P.O. Box 118

Jefferson City, MO 65102

Phone: 573-751-9048

Fax: 573-751-8480

[www.missouridevelopment.org](http://www.missouridevelopment.org)

Email: [dedfin@ded.mo.gov](mailto:dedfin@ded.mo.gov)

# ***Wine and Grape Production Program Guidelines***

**Effective August 28, 2005, and pursuant to Section 620.1900, RSMo, this tax credit program is subject to a fee of 2.5% of the amount of tax credits issued. Applicants will be invoiced for the fee after the tax credit application has been approved. Tax credits will be issued upon receipt of the fee.**

## **PURPOSE:**

These guidelines shall assist Missouri wine producers and grape growers (producers) in the implementation and application of the wine and grape production program (program). The program operates under the provisions of Section 135.700, RSMo.

## **WHAT IS A WINE AND GRAPE PRODUCTION PROGRAM?**

The program assists producers who purchase new equipment and materials used directly in wine and grape production by granting a tax credit against state tax liability.

## **WHO MAY APPLY?**

Producers, headquartered and physically located in Missouri, are eligible to apply for this program.

## **ELIGIBLE PURCHASES DEFINED:**

Equipment and materials must be new purchases. The purchase price is the selling price of the new equipment and materials, excluding sales tax, delivery cost, shipping and handling costs, installation costs, and other unrelated costs.

The new equipment and materials must be:

- ☐ Used on land owned or leased for the purpose of producing wine or growing grapes; and
- ☐ Used directly in the production of wine or growing of grapes in the state of Missouri.

The new equipment and materials will be considered used directly based upon:

- ☐ Where the item in question is used;
- ☐ When the item in question is used; and
- ☐ How the item in question is used to produce wine or grow grapes.

## **ELIGIBLE EQUIPMENT MAY INCLUDE:**

- |                              |                                    |
|------------------------------|------------------------------------|
| 1. Barrels                   | 11. Irrigation equipment           |
| 2. Bins                      | 12. Labeling equipment             |
| 3. Bottle filling equipment  | 13. Post hole digger               |
| 4. Capsuling equipment       | 14. Presses                        |
| 5. Corkers                   | 15. Pumps                          |
| 6. Crusher and de-stemmer    | 16. Refractometer                  |
| 7. Fermenters                | 17. Seeder                         |
| 8. Filters and filter sheets | 18. Tanks                          |
| 9. Glassware cleaner         | 19. Tractors                       |
| 10. Grape harvester          | 20. Weeding and spraying equipment |

## **ELIGIBLE MATERIALS MAY INCLUDE:**

- |              |                  |
|--------------|------------------|
| 1. Bottles   | 10. Grape plants |
| 2. Chemicals | 11. Herbicides   |

- |                              |            |
|------------------------------|------------|
| 3. Corks, caps, and capsules | 12. Labels |
| 4. Dirt                      | 13. Poles  |
| 5. Earth anchors             | 14. Posts  |
| 6. Fermentation nutrients    | 15. Sugar  |
| 7. Fertilizer                | 16. Wine   |
| 8. Grape juice concentrates  | 17. Wire   |
| 9. Grapes                    | 18. Yeast  |

### **INELIGIBLE EXPENSES:**

Utilities, labor costs, service costs, repair costs, maintenance costs, construction costs, and general supplies are not eligible expenses. Invoices must clearly differentiate the costs of equipment and materials from ineligible expenses. Used or rented equipment and materials are also not eligible.

### **ISSUANCE OF TAX CREDITS:**

A grape grower or wine producer shall receive a tax credit against the state tax liability incurred pursuant to Chapter 143, RSMo, excluding the provisions relating to the withholding of tax as provided in Sections 143.191 to 143.265, RSMo, in the amount of 25% of the purchase price of all new equipment and materials used directly in the growing of grapes or the production of wine in Missouri.

DED will review the application and report of expenses along with the supporting documents. Effective August 28, 2005, and pursuant to Section 620.1900, RSMo, this tax credit program is subject to a fee of 2.5% of the amount of tax credits issued. Applicants will be invoiced for the fee after the tax credit application has been approved. Tax credits will be issued upon receipt of the fee. Once the fee has been processed, a certificate of tax credit will be issued and mailed to the applicant. Tax credits will be issued for the year when the purchases were made and may be used to offset the state tax liability in the same year. A purchase is considered made in the year the funds are expended. The producers may apply for only five years. The tax credits cannot be carried forward or sold.

### **HOW TO APPLY:**

An "Application for Requesting a Certificate of Tax Credit for the Purchases of New Equipment or Materials" and "Report of Expenses for the Wine and Grape Production Program" along with the supporting documents must be completed to demonstrate that all the requirements are met, and sent to DED for review.

The registration of the business with the Secretary of State is required if the winery or vineyard is formed as a corporation, general partnership, or limited liability company. Please refer to the website below for more information: <https://www.sos.mo.gov/businessentity/nameregistration/Default.aspx>

### **SUPPORTING DOCUMENTS:**

#### Proof of purchase:

- ☐ Invoice or receipt

#### Proof of payment:

- ☐ Cancelled Check (for check transactions);  
☐ Bank Statement (for debit card transactions); or  
☐ Credit Card Statement (for credit card transactions).

***Note: Cash transactions generally are not eligible for tax credits, as they cannot be easily tracked to the eligible applicant.***

### **NAICS:**

NAICS is North American Industry Classification System. The Federal Office of Management and Budget (OMB) adopted the NAICS as the industry classification system used by the statistical agencies of the United States. NAICS replaces the 1987 Standard Industrial Classification (SIC). The NAICS is used for classifying business establishments to assist with gathering data related to measuring productivity, unit labor costs, and the capital intensity of production, employment and other information. Missouri

businesses are assigned a NAICS when the company files a “Report to Determine Liability Status” with the Missouri Department of Labor and Industrial Relations, Division of Employment Security to determine Unemployment Tax Liability. Normally, a general business employer becomes liable for the tax and responsible for providing unemployment insurance for its workers when it:

- ☐ Pays \$1,500 in wages (cash and in-kind) in a calendar quarter, or
- ☐ Has an employee in some portion of a day in each of twenty (20) different weeks, or
- ☐ Becomes liable under the Federal Unemployment Tax Act (FUTA) and employs a worker in Missouri, or
- ☐ Acquires and continues without interruption substantially all the business of a liable employer.

**NOTICE:**

The Tax Credit Accountability Act of 2004 (Senate Bill 1099, Sections 135.800 through 135.830, RSMo) makes several changes to the tax credit programs, specifically:

- ☐ Processing tax credit applications;
- ☐ Annual reporting requirements; and
- ☐ Penalty provisions.

**CHANGES IN PROCESSING OF TAX CREDITS (SECTION 135.815, RSMo)**

Prior to authorization of a tax credit, the DED will contact the Departments of Revenue and Insurance and verify that the applicant does not owe any delinquent income, sales, use, or insurance taxes, or interest or penalties on such taxes. If a delinquency exists, the amount of tax credits issued will be reduced by the amount of the delinquency. After satisfying all delinquencies, the remaining credits shall be issued.

**REPORTING REQUIREMENTS (SECTION 135.805, RSMo)**

Certain tax credit recipients are required to annually report information pertaining to the project that received the tax credits to DED. The statute requires that a full year pass after the issuance of the tax credits before SB1099 reporting requirements must be met. The earliest date that SB 1099 reporting may be required is June 30, 2006.

The Agricultural Category of tax credits, which includes the wine and grape production program, requires recipients to annually report for three (3) years following the date of issuance of the tax credits to DED the following information:

- ☐ Type of agricultural commodity
- ☐ Amount of contribution
- ☐ Type of equipment purchased
- ☐ Name and description of facility, except that if the agricultural credit is issued as a result of a producer member investing in a new generation processing entity then the new generation processing entity, and not the recipient, shall annually, for a period of three years following the issuance of tax credits provide the information.

**PENALTY PROVISIONS (SECTION 135.810, RSMo)**

Failure to meet the annual reporting requirements or fraud in the application process if determined by a court, such person or entity shall be subject to penalties.

If the annual report is ninety (90) days past due, the DED shall send notice by registered mail to the last known address of the person or entity who is required to complete the annual report. The notice shall inform the person or entity of the past-due report and the pending penalties and their respective deadlines.

If the annual report is six (6) months past due, the DED shall notify the Department of Revenue that the taxpayer is subject to penalties because of failure to report.

Such penalties include the following:

- ❑ Failure to report for six (6) months but less than one year shall equal a penalty of two percent (2%) of the value of the tax credits issued for each month of the delinquency.
  - EXAMPLE: Recipient receives \$10,000 in tax credits. Annual report is due June 30, 2006, however, the recipient does not submit the report until March 30, 2007. The recipient is nine (9) months delinquent and the penalty would equal 2% multiplied by \$10,000 for nine (9) months or \$1800.
- ❑ Failure to report for more than one (1) year shall equal a penalty of ten percent (10%) of the value of the credits issued for each month of the delinquency, not to exceed one hundred percent (100%) of the tax credit value.
  - EXAMPLE: Recipient receives \$10,000 in tax credits. Annual report is due June 30, 2006, however, the recipient does not submit the report until March 30, 2008. The recipient is twenty-one (21) months delinquent and the penalty would equal 10% multiplied by \$10,000 for twenty-one (21) months or \$21,000, however, the statute limits the penalty to the amount of the tax credits, therefore, the penalty would be \$10,000.

The taxpayer shall be liable for any penalties as of December 31 of any tax year and the liability shall be due as of the filing date of the taxpayer's next income tax return.

If the taxpayer is not required to file an income tax return, the taxpayer's liability for penalties shall be due as of April 15<sup>th</sup> of each year.

The Director of the Department of Revenue shall offset any tax credits claimed on a filed tax return against an outstanding penalty before applying such credits to the tax year against which they were originally claimed.

Any nonpayment of liability for penalties shall be subject to the same provisions of law as a liability for unpaid income taxes, including but not limited to, interest and penalty provisions.

Penalties shall remain the obligation of the person or entity obligated to complete the annual report without regard to any transfer of the credits.

#### **CLOSED RECORDS (SECTIONS 610.255 and 620.014, RSMo)**

Prior to August 28, 2004 and pursuant to Section 620.014, DED had the authority to close certain records except for the name of the tax credit recipient and the amount of the tax credit. SB 1099 removes this broad exception but DED retains the authority to close records or documents that "relate to financial investments in a business, or sales projections or other business plan information which may endanger the competitiveness of a business" or as also allowed by law.



## Wine and Grape Production Program, Section 135.700, RSMo Tax Credit Application for Purchases of New Equipment or Materials

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Tax Year Beginning \_\_\_\_\_, \_\_\_\_\_ and Ending \_\_\_\_\_, \_\_\_\_\_

<b>Business</b>					
Entity Name				Federal ID No: (FEIN)	
Address				MITS/Missouri ID No.	
City	State	Zip Code	Telephone Number	Fax Number	
<b>Business Owner</b>					
First Name	Middle Name	Last Name		SSN:	
Address (Street, P.O. Box)		City	State	Zip Code	
Telephone Number		Fax Number		E-Mail	
<b>Contact Person</b>					
Business Contact Person				Title	
Address		City	State	Zip Code	
Telephone Number		Fax Number		E-mail	
<b>Business Entity for Tax Purposes (circle one)</b>					
C-Corp	S-Corp	LLC	General Partnership	Sole Proprietor	Other _____
If the taxpayer is a Partnership, S-Corporation, or other entity with a flow through tax treatment, identify the names, social security numbers, and proportionate share of ownership of each beneficiary, partner, or shareholder on the last day of the tax period. Aggregate proportionate shares or percent of total ownership may not exceed 100%. Attach a separate sheet if necessary.					
<b>Name(s)</b>		<b>Social Security Numbers</b>		<b>% Ownership Year End</b>	
				%	
				%	
				%	
<b>Type of Business (check one)</b>			<b>Type of Agricultural Commodity (check one)</b>		
Vineyard			Grapes		
Winery			Wine		
<b>Facility Details</b>					
Mfg. License Number:		Facility's NAICS Code:			
<b>Facility Details (cont.)</b>					
# of Full Time employees at all Missouri location:			# of Full Time employees at all U.S. locations:		

Name and Description of the Facility:		
Are any other State or Federal programs being applied for or utilized for this project?		
If Yes, please specify: _____		<div>Yes</div> <div>No</div>
<b>Attachments (All supporting documents must be included for the application to be processed)</b>		
Report of Expenses	Supporting Documents	E-Verify Memorandum of Understanding
<b>Per HB 1549, any business receiving must enroll in the E-Verify Program. The program is designed to provide employment status information to determine the eligibility of applicants for employment. Currently an employer's participation in E-Verify is FREE. To access E-Verify website, go to: <a href="https://e-verify.uscis.gov/enroll/">HTTPS://e-verify.uscis.gov/enroll/</a></b>		
<b>CERTIFICATION (PLEASE READ THOROUGHLY PRIOR TO SIGNING)</b>		
<ul style="list-style-type: none"> <li>I certify that I am an authorized representative of the applicant and as such am authorized to make the statement of affirmation contained herein.</li> <li>I certify that the applicant does NOT knowingly employ any person who is an unauthorized alien and the applicant has complied with federal law (8 U.S.C. § 1324a) requiring the examination of an appropriate document or documents to verify that each individual is not an unauthorized alien.</li> <li>I certify that the applicant is enrolled and will participate in a federal work authorization program as defined in Section 285.525(6), RSMo., with respect to employees working in connection with the activities that qualify applicant for this program. I certify that the applicant will maintain and, upon request, provide the Department of Economic Development documentation demonstrating applicant's participation in a federal work authorization program with respect to employees working in connection with the activities that qualify applicant for this program.</li> <li>I understand that, pursuant to section 285.530.5, RSMo, a general contractor or subcontractor of any tier shall not be liable under section 285.525 to 285.550 when such general contractor or subcontractor contracts with its direct subcontractor who violates section 285.530.1, if the contract binding the contractor and subcontractor affirmatively states that the direct subcontractor is not knowingly in violation of section 285.530.1 and shall not henceforth be in such violation and the contractor or subcontractor receives a sworn affidavit under the penalty of perjury attesting to the fact that the direct subcontractor's employees are lawfully present in the United States.</li> <li>I understand that if the applicant is found to have employed an unauthorized alien, applicant may subject to penalties pursuant to Sections 135.815, 285.025, and 285.535, RSMo.</li> <li>I understand that if the applicant is found to have employed an unauthorized alien in Missouri and did not, for that employee, examine the document(s) required by federal law, that the applicant shall be ineligible for any state-administered or subsidized tax credit, tax abatement or loan for a period of five years following any such finding.</li> <li>For a privately held company, there is no person who owns an ownership interest or who is employed in a management capacity by the company who has committed a felony, is presently under indictment, or is on parole or probation.</li> <li>There are no pending or threatened liens, judgments, or material litigation which is likely to affect the viability of the company as an ongoing concern.</li> <li>The company does not have any delinquent non-protested taxes (state, federal, or local.)</li> <li>The company has not filed (nor is about to file) for bankruptcy.</li> <li>The company has not failed to fulfill any obligations under any other state or federal program.</li> <li>I attest that I have read and understand the Wine &amp; Grape Tax Credit Program guidelines, specifically as it relates to the Tax Credit Accountability Act of 2004 (SB 1099).</li> <li>I hereby agree to allow representatives of the Department of Economic Development access to the property and applicable records as may be necessary for the administration of this program.</li> <li>I certify under penalties of perjury that the above statements, information contained in the application and attachments are complete, true, and correct to the best of my knowledge and belief.</li> </ul>		
<b>Signature and Notarization</b>		
<b>Print Name</b>	<b>Signature</b>	<b>Date</b>
Notary Public Embosser	On this _____ day of _____, 20____, before me,	
	_____, a Notary Public in and for said state, personally appeared	
	_____, known to me to be the person who executed the above	
	certification, and acknowledged and states on his/her oath to me that he/she executed the	
	same for the purpose therein stated.	
	State of _____	County (or City of St. Louis)
	My Commission Expires _____ / _____ / _____	Use Rubber Stamp in Area Below
	Notary Public Signature _____	





## **Wine and Grape Production Program Report of Expenses Instructions**

Complete “Report of Expenses for the Wine and Grape Production Program” and return to the Department with the application and supporting documents.

### **Instructions to the report:**

*Column 1:* Tracking number for each invoice or receipt.

*Column 2:* Print the date of the invoice or receipt.

*Column 3:* Print the name of the store or company where the purchase was made. Underneath list all eligible items that appear on the invoice or receipt. All invoices or receipts must be clearly itemized.

*Column 4:* Explain how and where each purchased item is used. Please be very specific. Attach a catalog or formal description of purchase where feasible and refer to such description in the table.

*Column 5:* Print the price excluding all ineligible expenses. For more information, refer to the Policy Guidelines for this program.

*Column 6:* Print the payment type such as cash, debit card, check, or credit card. In addition:

1. For cash transactions, provide invoice or receipt of the purchase. The invoice or receipt must be itemized and must clearly state that all items were paid in cash.
2. For debit card transactions, provide the bank statement. The dollar amount, and name of the store or company must be the same as on the invoice or receipt.
3. For check transactions, provide the copy of the cancelled check (front and back). The dollar amount and name of the company or store must be the same as on the invoice or receipt.
4. For credit card transactions, provide the credit card statement. The dollar amount and name of the store or company must be the same as on the invoice or receipt. In addition, provide the credit card statement for the period(s), which shows that at least the amount of the purchase has been paid. A cancelled copy of the check to the Credit Card Company is also acceptable.

*Column 7:* The date of the actual payment is the date on which the actual/physical transfer of cash from the buyer to the seller occurred. In particular:

1. For cash transactions, the date of the actual payment is the date of the invoice/receipt.
2. For debit card transactions, the actual date of payment is the date when the bank cleared the particular transaction.
3. For check transaction, the actual date of the payment is the date on the check.
4. For credit card transactions, the actual date of the payment is the date of payment to the credit card company.



**Wine and Grape Production Program**  
**Report of Expenses for Tax Year Ending 20\_\_**  
 (See Instructions)

#	Date of Invoice/Receipt	Item Description	How and where are the purchased items used? (Be Specific)	Cost \$	Payment Type	Payment Date
			<b>TOTAL COSTS</b>	\$		